

COMMON FORMS OF OWNERSHIP CHART

How To Take Title to Real Property

VESTING SUBJECT	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY	COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP
Parties	Any number of persons. (can be husband and wife).	Any number of persons. (can be husband and wife).	Only husband and wife.	Only husband and wife and only when interest is created on or after July 1, 2001.
Division	Ownership can be divided into any number of interests, equal or unequal.	Ownership interests cannot be divided.	Ownership interests are equal.	Ownership interests are equal.
Title	Each co-owner has a separate legal title to his undivided interest.	There is only one title to the whole property.	Title in the "Community." (Similar to title being in a partnership).	Title in the "Community." (Similar to title being in a partnership).
Possession	Equal right of possession.	Equal right of possession.	Equal right of possession.	Equal right of possession.
Conveyance	Each co-owner's interest may be conveyed separately by its owner.	Conveyance by one co-owner without the others breaks the joint tenancy.	Both co-owners must join in conveyance of real property. Separate interests cannot be conveyed.	Both co-owners must join in conveyance of real property. Separate interests cannot be conveyed.
Purchaser's Status	Purchaser becomes a tenant in common with the other co-owners.	Purchaser becomes a tenant in common with the other co-owners.	Purchaser can only acquire whole title of community. cannot acquire a part of it.	Purchaser can only acquire whole title of community. cannot acquire a part of it.
Death	On co-owner's death, his interest passes by will to his devisees or heirs. No survivorship right.	On co-owner's death, his interest ends and cannot be willed. Survivor owns the property by survivorship.	On co-owner's death, 1/2 goes to survivor in severalty. Up to 1/2 goes by will or succession to others. (Consult attorney with specific questions).	On co-owner's death, decedent's interest ends and cannot be willed. Survivor owns the property by survivorship.
Successor's Status	Devisees or heirs become tenants in common.	Last survivor owns property in severalty.	If passing by will, tenancy in common between devisee and survivor results.	Last survivor owns property in severalty.
Creditor's Rights	Co-owner's interest may be sold on execution sale to satisfy his creditor. Creditor becomes a tenant in common.	Co-owner's interest may be sold on execution sale to satisfy creditor. Joint tenancy is broken, creditor becomes tenant in common.	Co-owner's interest cannot be seized and sold separately. The whole property may be sold to satisfy debts of either husband or wife depending on the debt. (Consult attorney with specific questions).	Co-owner's interest cannot be seized and sold separately. The whole property may be sold to satisfy debts of either husband or wife depending on the debt. (Consult attorney with specific questions).
Presumption	Favored in doubtful cases except husband and wife. (See community property).	Must be expressly stated and properly formed. Not favored.	Strong presumption that property acquired by husband and wife is community.	Strong presumption that property acquired by husband and wife is community.

NOTE:

This table is intended for reference only. Clients should be advised to consult an attorney regarding the best way to hold title as personal circumstances often affect this decision.